

# CITY OF CONWAY, ARKANSAS

## ZONING VARIANCE [Planning Commission acting as the Board of Zoning Adjustment]

### Power and Duties, Procedures, Time Limits, and Appeals

*Effective on and after November 26, 1994*

#### Powers and Duties

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Ordinance O-11-97 established the Conway Planning Commission as the Board of Zoning Adjustment as allowed by Arkansas State Code 14-56-416.B.1. The Planning Commission shall hear two types of zoning requests, Administrative Review and Variances.

##### 1. **Administrative Review**

The Planning Commission may hear and decide appeals where it is alleged there is an error in any decision made by the administrative official in the enforcement of the Zoning Ordinance.

##### 2. **Variances**

The Planning Commission may authorize variances that are not contrary to the public interest where, due to special conditions, a literal enforcement of the Zoning Ordinance would result in unnecessary hardship and deprive the owner or any reasonable use of the land or building involved. A variance shall not be granted unless:

- a. The applicant can show that special conditions exist that are unusual to the land, structure, or building involved and that these conditions are not applicable to other lands, structures, or buildings in the same zoning district.
- b. The applicant can show that literal interpretation of the Zoning Ordinance requirements would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.
- c. The applicant can show that special conditions do not result from the actions of the applicant.
- d. The applicant can show that granting the requested variance will not grant the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures, or buildings in the same zoning district.
- e. Nonconforming (grandfathered) or conditional permitted uses, structures, or buildings in the same or other zoning districts shall be considered justification for granting a variance.
- f. The reasons set forth in the application justify the granting of the variance.
- g. The Planning Commission shall issue a variance that is the minimum variance that makes possible reasonable use of the land, building, or structure.
- h. The granting of the variance will be in harmony with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting a variance, the Planning Commission may specify appropriate conditions and safeguards that it deems necessary or desirable. Violations of such conditions and safeguards are a violation of the Zoning Ordinance.

**The Planning Commission, acting as the Board of Zoning Adjustment, shall not grant a variance to allow a land use not permissible in the zoning district involved.**

#### **Special Exceptions - the Planning Commission may hold public hearings and decide:**

1. The extension of a zoning district boundary where the boundary divides a lot held in a single ownership at the time of adoption of this ordinance.
2. May interpret zoning district boundaries where uncertainty exists as to the boundaries of the zoning districts or when the street or property lines existing on the ground disagree with those shown on the Zoning District Map.

## Procedure

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1. The applicant must pay a non-refundable filing fee of \$325.00 for any zoning variance request.
2. Every appeal or application shall refer to the specific provision of the Zoning Ordinance involved and shall exactly describe (a) the interpretation that is claimed, (b) the use for which the variance is sought, or (c) the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted.
3. The application for zoning variance must be submitted to the Planning Commission **no less than 15 days prior to the public hearing** (see attached Planning Commission Meeting schedule).
4. The Application must include a scale drawing showing the requested variance along with any other relevant information, including the special condition or situation that causes the practical difficulty or undue hardship for which relief is being sought and a statement and/or diagram explaining why the proposed zoning variance will not conflict with the surrounding land use.
5. The applicant must place a notice of public hearing in the Log Cabin Democrat appearing **at least once, 15 days prior to the public hearing**. The notice must include:
  1. The zoning variance being sought,
  2. The location (including legal description and address. If no address is available, a description, that is clear to the average person, will suffice) and
  3. The time, date, and place of the public hearing. (see attached Planning Commission Meeting schedule)The public notice must be headed "Public Notice" and include the name of the current chairperson of the Planning Commission.
6. The applicant must post one or more public hearing signs on the property. The sign(s) should be clearly visible and unobstructed to the passing general public. The sign(s) must be posted on or near the front property line **no later than 15 days prior to the public hearing** and must remain on the property until the public hearing before the Planning Commission. The disposable sign(s) is obtained from the Planning & Development Department. The cost is \$7.50 per sign.
7. The applicant must notify all property owners within 200 feet of the subject property via first-class mailing letter and/or petition **no less than 15 days prior to the public hearing**. The notification must include the date, time, and location of the public hearing. The postmarked certificates of mailing and/or return receipts and/or petition must be submitted to the Planning & Development Department **no less than 15 days prior to the public hearing**. A **list/map** indicating all property owners within 200 feet of the subject property and a **letter** from the petitioner, certifying that the list/map is complete, must also be submitted at this time. OR a list of property owners within 200 feet of the subject property may be obtained from the Planning and Development Department prior to the deadline.
8. At the public hearing, the proposed variance may be approved as presented, in modified form, or with conditions by a majority vote of the Planning Commission acting as the Board of Zoning Adjustment. The decision made at the public hearing is final. The variance request does not go forward to the City Council for further review.

## Time Limit on Permits

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No order permitting the use of a building or premises, or the alteration or erection of a building shall be valid for a period longer than sixty (60) days unless such use is established or the erection or alteration is started within such period and proceeds to completion in accordance with the terms of a building permit.

## Appeals

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Any person or persons, or any board, taxpayer, department, board or bureau of the City, aggrieved by any decision of the Planning Commission acting as the Board of Zoning Adjustment may seek review by the a court of record of such decisions, in the matter provided by the laws of the State of Arkansas.

*Note: This is not an exhaustive guideline regarding the Board of Zoning Adjustment. Additional information is available in the City of Conway Zoning Ordinance, Article 801.*

## **Checklist of Items for Zoning Variance Application**

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- ☐ **Application for zoning variance-** filed with the Planning & Development Department **no less than 17 days prior to the public hearing.**
- ☐ **Scale drawing showing requested variance along with any relevant information** - filed with the Planning & Development department **no less than 10 days prior to the public hearing.**
- ☐ **Non-refundable Filing fee of \$325** - paid at the Planning & Development department **no later than 17 days prior to the public hearing.** Make checks payable to City of Conway.
- ☐ **Sign** - the disposable sign can be obtained at the Planning & Development department for \$7.50 and must be posted **no less than 15 days prior to the public hearing.**
- ☐ **Proof of Publication** - The notice must appear at least once **no less than 15 days prior to the public hearing.** The proof of publication, obtained from the *Log Cabin Democrat* after publication of public notice, is filed with the Planning & Development department **no less than 10 days prior to the public hearing.**
- ☐ **Certificates of Mailing and/or petitions to all property owners within 200 feet** - notifications to all property owners within 200 feet must be postmarked **no later than 15 days prior to the public hearing.** Completed certificates of mailings (issued by the USPS) and/or petition are filed with the Planning & Development department no later than 10 days prior to the public hearing.
- ☐ **Map/List showing all property owners within 200 feet** - a map/list (may be obtained from the Planning & Development department) including all names of property owners within 200 feet must be filed with the Planning & Development department **no later than 10 days prior to the public hearing.**

## **VARIANCE CHECKLIST**

### **Conway Planning Commission acting as the Board of Zoning Adjustment City of Conway, Arkansas**

At least one checkmark should appear under each of the items 1, 2, and 3 below in order for the Board of Zoning Adjustment to have the power to grant a variance. The board may not grant a variance in use.

1. Exceptional condition of a specific property
  - ☐ Narrowness
  - ☐ Shallowness
  - ☐ Shape
  - ☐ Topographical conditions
  - ☐ Other extraordinary or exceptional situation or condition
2. Frequency of occurrence of exceptional conditions
  - ☐ Not generally prevalent in the area
3. Result of a strict application of the Zoning Ordinance
  - ☐ Peculiar and exceptional practical difficulty to the Owner of the property
  - ☐ Exceptional and undue hardship on the Owner of the property

**APPLICATION FOR ZONING VARIANCE**  
**Conway Planning Commission acting as the Board of Zoning Adjustment**  
**City of Conway, Arkansas**

**Proposed Location**

Address: \_\_\_\_\_

Subdivision Name: \_\_\_\_\_

Block Number: \_\_\_\_\_ Lot Number: \_\_\_\_\_

Property description if not in a subdivision: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Description of variance being sought: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Proposed Use: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Name of Applicant: \_\_\_\_\_

Signature of Owner/Applicant: \_\_\_\_\_

Home Address: \_\_\_\_\_

Email Address: \_\_\_\_\_ Daytime Telephone: \_\_\_\_\_

Date: \_\_\_\_\_

## NOTICE OF PUBLIC HEARING AND NOTIFICATION LETTER FORMAT

The following information is to be included in the newspaper publication and notification letters.

Notice is hereby given that \_\_\_\_\_ has filed an application with the Conway  
name of applicant  
Planning Commission requesting that they be allowed \_\_\_\_\_  
variance requested  
at the following described property:

**[insert physical address or a description clear to the average person if no physical address is available]**

more particularly described as **[insert legal description]**

A public hearing on said request will be held at 7:00 pm on \_\_\_\_\_ in the  
meeting date  
District Court Building, 810 Parkway Street. All persons are called upon to show cause for or against the granting of said variance.

For further information regarding this item please visit [www.cityofconway.org](http://www.cityofconway.org) or contact the Planning & Development department at 501-450-6105.

Mark Lewis  
Chairman, 2016  
Conway Planning Commission

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**This notice must be run in the legal notices section of the Log Cabin Democrat no less than 15 days prior to the public hearing.**

**The deadline for legal notices is noon, 2 days prior to publication.**

The deadline for Sunday and Monday publications is noon Friday.

Legal notices must be submitted in a copy/paste format (Microsoft Word doc., RTF file, etc.)

**by email only to [legals@thecabin.net](mailto:legals@thecabin.net).**

For further information regarding publication requirements please contact the *Log Cabin Democrat* at 501-327-6621.

# 2016

## CONWAY PLANNING COMMISSION

### SCHEDULED MEETING DATES

<b><u>MONTH</u></b>	<b><u>MEETING DATE</u></b>	<b><u>SUBMISSION DEADLINE</u></b>
January	Tuesday, January 19 <sup>1</sup>	Monday, January 4
February	Tuesday, February 16 <sup>2</sup>	Friday, January 29
March	Monday, March 14 <sup>3</sup>	Friday, February 26
April	Monday, April 18	Friday, April 1
May	Monday, May 16	Thursday, April 28
June	Monday, June 20	Friday, June 3
July	Monday, July 18	Friday, July 1
August	Monday, August 15	Friday, July 29
September	Monday, September 19	Friday, September 2
October	Monday, October 17	Friday, September 30
November	Monday, November 21	Friday, November 4
December	Monday, December 19	Friday, December 2

Conway Planning Commission meetings begin at 7:00 pm in the Russell L. “Jack” Roberts District Court Building located at 810 Parkway Avenue, Conway, Arkansas. The agenda with supporting information for each meeting is available at <http://www.cityofconway.org/pages/planning-minutes-reports/>

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<sup>1</sup>Meeting moved due to Martin Luther King, Jr. Day Observance

<sup>2</sup> Meeting moved due to Presidents’ Day Observance

<sup>3</sup> Meeting moved due to Spring Break